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Agenda item 4

REPORT ON THE AD HOC GROUP ON ARTICLE 13 ON ITS SIXTH SESSION, BONN, 5-11 JUNE 1998

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I. OPENING OF THE SESSION
(Agenda item 1)

1. The sixth session of the Ad Hoc Group on Article 13 (AG13) was held at the Hotel Maritim, Bonn, from 5 to 11 June 1998.

2. The Chairman of the AG13, Mr. Patrick Széll, opened the session on 5 June 1998. In welcoming the participants, he recalled that the Group had had difficulty making progress in its early meetings because of uncertainties as to the outcome of the Berlin Mandate negotiations and as to what the basic character of the multilateral consultative process should be. He noted that the Kyoto Protocol had been adopted in December 1997 and the AG13 had, at its fourth session, concluded that the multilateral consultative process should be advisory rather than supervisory in nature. Hence, the basis now existed for completion of the Group's work at the present session. In this regard, he referred to decision 14/CP.3 of the Conference of the Parties (FCCC/CP/1997/7/Add.1), which invited the Group to complete its work before the fourth session of the Conference. In view of the good progress the AG13 had made on designing the multilateral consultative process at its fifth session, in July 1997, he was optimistic that, despite the sizeable number of important and difficult issues yet to be resolved, the Group should be able to finalize its work on schedule.

II. ORGANIZATIONAL MATTERS
(Agenda item 2)

A. Adoption of the agenda
(Agenda item 2 (a))

3. At its 1st meeting, on 5 June, the AG13 adopted the following agenda:

1. Opening of the session.

2. Organizational matters:

   (a) Adoption of the agenda;

   (b) Organization of the work of the session;

3. Functions and procedures of the multilateral consultative process.

4. Report on the session.

B. Organization of the work of the session
(Agenda item 2 (b))

4. At the 1st meeting, on 5 June, the Chairman recalled that conference services would be available for eight meetings of the Group with interpretation from 10 a.m. to 1 p.m. and from 3 p.m to 6 p.m. The AG13 agreed to proceed on the basis of the proposed schedule of work contained in annex II to document FCCC/AG13/1998/1.

5. The AG13 agreed to the admission of nine non-governmental organizations that had been screened by the secretariat, on the basis of the provisions of Article 7.6 of the Convention, without prejudice to subsequent action by the Conference of the Parties.

C. Attendance

6. The list of attendance at the sixth session of the AG13 is contained in document FCCC/1998/INF.1.

D. Documentation

7. The main documents that have been considered by the AG13 since its establishment in 1995 are listed in annex I below.

III. FUNCTIONS AND PROCEDURES OF THE MULTILATERAL CONSULTATIVE PROCESS
(Agenda item 3)

8. At its 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 8th and 9th meetings, on 5, 6, 8, 9 and 10 June, the AG13 considered the functions and procedures of the multilateral consultative process as contained in annex II to the report on the work of its fifth session (FCCC/AG13/1997/4).

1. Proceedings

9. Statements were made by representatives of 23 Parties, including one speaking on behalf of the Group of 77 and China and one speaking on behalf of the European Community and its member States. A statement was also made by the secretariat.

10. Upon the proposal of the Chairman, the AG13 agreed:

(a) That "transparent" in paragraph 3 of the multilateral consultative process text (see annex II below) referred to the importance of the Party or Parties concerned being at all times in a position to participate fully in the process as well as of ensuring that the outcome of the process was open, understandable and available to the other Parties and to the public, but it did not mean that the proceedings of the multilateral consultative process were to be open to all;

(b) That the "principle of rotation" in paragraph 9 of the same text referred to the term of office of the members of the Multilateral Consultative Committee. In order to ensure continuity of experience on the Committee, the term of office of one third of the Parties designated as members should expire after one year, the term of office of one third of the members should expire after two years and the term of office of the remainder of the members should expire after three years. The members of the Multilateral Consultative Committee whose terms are to expire at the end of the above-mentioned initial periods of one, two and three years should be chosen by lot to be drawn by the Executive Secretary of the United Nations Framework Convention on Climate Change immediately after the Parties have been designated;

(c) That with regard to paragraphs 10 and 11 of the same text, the secretariat will arrange for and service the meetings of the Committee as well as provide such additional information as the Committee deems necessary to enable it to carry out its mandate as specified in paragraph 6.

11. The secretariat informed the AG13 that there is no provision in the Programme Budget for the year 1999 for work related to meetings of the proposed Multilateral Consultative Committee (see FCCC/CP/1997/INF.1, section II. C(i)). The resource implications of this proposal would need to be considered by the COP, along with any other new work arising from the deliberations of the other subsidiary bodies.

2. Conclusions

12. The AG13, having considered a proposal from the Chairman, decided to adopt the framework of the multilateral consultative process, set out in annex II below, subject to the matters contained in square brackets in its paragraphs 8 and 9. With regard to paragraph 9, some Parties were of the view that it follows from the structure of the Convention that the multilateral consultative process should follow a procedure that prescribed equal participation by Annex I and non-Annex I Parties in the Multilateral Consultative Committee. The representative of the Group of 77 and China speaking on behalf of the Group, stated that the Group stands by its position based on the well-established practice of the United Nations on the equitable geographical distribution principle. Despite sustained efforts, it was not possible to achieve consensus on these points at the sixth session of the AG13. In the event, however, that these outstanding issues are resolved at the fourth session of the Conference of the Parties, the COP may wish to adopt the multilateral consultative process under cover of the draft decision set out in annex III below.

IV. REPORT ON THE SESSION
(Agenda item 4)

13. At its 8th and 10th meetings, on 9 and 11 June respectively, Mr. Andrej Kranjc, Rapporteur, presented the draft report of the session. The AG13 considered and adopted the document and requested the Rapporteur, under the guidance of the Chairman and with the assistance of the secretariat, to complete the report, taking into account the discussions of the AG13 and the need for editorial adjustments.

14. The Chairman expressed his great appreciation to the participants for their constructive cooperation and their efforts to fulfil the Group's mandate, not just at the present session but throughout the entire period of the Group's existence, and declared the sixth session of the AG13 closed.

Annex I

DOCUMENTS CONSIDERED BY THE AD HOC GROUP ON ARTICLE 13

FCCC/AG13/1997/2	Report of the Ad Hoc Group on Article 13 on the work of its fourth session, Bonn, 25 - 28 February 1997
FCCC/AG13/1997/4	Report of the Ad Hoc Group on Article 13 on the work of its fifth session, Bonn, 28 - 30 July 1997
FCCC/CP/1997/7 and Add.1	Report of the Conference of the Parties on its third session, held at Kyoto from 1 to 11 December 1997
FCCC/AG13/1997/MISC.1	Scope and elements of the procedure of any proposed mechanism: submissions from Parties
FCCC/AG13/1997/MISC.2	Scope and elements of the procedure of any proposed mechanism: submissions from Parties
FCCC/AG13/1996/1	Questionnaire on the establishment of a multilateral consultative process under Article 13: synthesis of responses
FCCC/AG13/1996/2	Report of the Ad Hoc Group on Article 13 on the work of its second session, held at Geneva on 10 July 1996
FCCC/AG13/1996/4	Report of the Ad Hoc Group on Article 13 on the work of its third session, held at Geneva from 16 to 18 December 1996
FCCC/AG13/1996/MISC.1 and Add.1	Responses to questionnaire relating to the establishment of a multilateral consultative process: submissions by Parties and non-parties

FCCC/AG13/1996/MISC.2 and Add.1	Responses to questionnaire relating to the establishment of a multilateral consultative process: submissions by intergovernmental and non-governmental bodies
FCCC/CP/1996/15 and Add.1	Report of the Conference of the Parties on its second session, held at Geneva from 8 to 19 July 1996
FCCC/AG13/1995/2	Report of the Ad Hoc Group on Article 13 on the work of its first session, held at Geneva from 30 to 31 October 1995
FCCC/CP/1995/7 and Add.1	Report of the Conference of the Parties on its first session, held at Berlin from 28 March to 7 April 1995
FCCC/CP/1995/MISC.2	Consideration of the establishment of a multilateral consultative process for the resolution of questions regarding implementation (Article 13): a review of selected non-compliance, dispute resolution and implementation review procedures
A/AC.237/59	Consideration of the establishment of a multilateral consultative process for the resolution of questions regarding implementation (Article 13)
A/AC.237/MISC.46	Consideration of the establishment of a multilateral consultative process for the resolution of questions regarding implementation (Article 13): submissions from delegations relating to Article 13

Annex II

MULTILATERAL CONSULTATIVE PROCESS

TERMS OF REFERENCE

Establishment

1. Pursuant to Article 13 of the United Nations Framework Convention on Climate Change, the Conference of the Parties hereby establishes a multilateral consultative process ("the process") in the form of a set of procedures to be served by a standing Multilateral Consultative Committee ("the Committee").

Objective

2. The objective of the process is to resolve questions regarding the implementation of the Convention, by:

(a) Providing advice on assistance to Parties to overcome difficulties encountered in their implementation of the Convention;

(b) Promoting understanding of the Convention;

(c) Preventing disputes from arising.

Nature

3. The process shall be conducted in a facilitative, cooperative, non-confrontational, transparent and timely manner, and be non-judicial. Parties concerned shall be entitled to participate fully in the process.

4. The process shall be separate from, and without prejudice to, the provisions of Article 14 of the Convention (Settlement of Disputes).

How issues would be taken up

5. Questions regarding the implementation of the Convention may be raised, with supporting information, by:

(a) A Party with respect to its own implementation;

(b) A group of Parties with respect to their own implementation;

(c) A Party or a group of Parties with respect to the implementation by another Party or group of Parties;

(d) The Conference of the Parties.

Mandate of the Committee

6. The Committee shall, upon a request received in accordance with paragraph 5, consider questions regarding the implementation of the Convention in consultation with the Party or Parties concerned and, in light of the nature of the question, provide the appropriate assistance in relation to difficulties encountered in the course of implementation, by:

(a) Clarifying and resolving questions;

(b) Providing advice and recommendations on the procurement of technical and financial resources for the resolution of these difficulties;

(c) Providing advice on the compilation and communication of information.

7. The Committee shall not duplicate activities performed by other Convention bodies.

Constitution

8. The Committee shall consist of [10] [15] [25] members. It shall be composed of persons nominated by Parties who are experts in relevant fields, such as those of science, socio-economics and the environment. The Committee may draw upon such outside expertise as it deems necessary.

9. [The members of the Committee shall be designated by the Conference of the Parties for three years, based on equitable geographical distribution[1] and the principle of rotation [with one half to be designated by Annex I Parties and one half to be designated by non-Annex I Parties][2]. Outgoing members may be re-appointed for one immediate consecutive term. The Chairmen of the subsidiary bodies of the Convention may participate in the meetings of the Committee as observers.]

Deliberations

10. The Committee shall meet at least once a year. Meetings of the Committee shall, whenever practicable, take place in conjunction with sessions of the Conference of the Parties or its subsidiary bodies.

11. The Committee shall report to each ordinary session of the Conference of the Parties on all aspects of its work, with a view to the Conference of the Parties taking whatever decisions it considers necessary.

Outcome

12. The conclusions and any recommendations of the Committee shall be sent to the Party or Parties concerned for its, or their, consideration. Such conclusions and recommendations shall be consistent with the mandate as described in paragraph 6 above. They may include:

(a) Recommendations regarding cooperation between the Party or Parties concerned and other Parties to further the objective of the Convention; and

(b) Measures that the Committee deems suitable to be taken by the Party or Parties concerned for the effective implementation of the Convention.

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[1] The Group of 77 and China stated that they uphold the principle of "equitable geographical distribution" which is a well-established practice within the United Nations and strongly objected to the placement of the phrase "equitable geographical distribution" in square brackets by some Parties.

[2] Some Parties stated that the phrase "equitable geographical distribution" was not acceptable and that the following language should be inserted after the word "rotation":

with one half to be designated by Annex I Parties and one half to be designated by non-Annex I Parties.

These Parties also noted their view that "equitable geographical distribution" was not a well-established practice and was not applicable in this context.

13. The Party or Parties concerned shall be given the opportunity to comment on the conclusions and recommendations. The Committee shall, in addition, forward its conclusions and recommendations and any written comments of the Party or Parties concerned to the Conference of the Parties in due time before its ordinary sessions.

Evolution

14. These terms of reference may be amended by the Conference of the Parties to take account of any amendment to the Convention, decisions of the Conference of the Parties or experience gained with the working of the process.

Annex III

Draft decision recommended by the Ad Hoc Group on Article 13 for adoption by the Conference of the Parties at its fourth session

Decision ../CP.4

Establishment of a multilateral consultative process

The Conference of the Parties,

Recalling Article 13 of the United Nations Framework Convention on Climate Change,

Recalling also its decisions 20/CP.1, 4/CP.2 and 14/CP.3,

Recognizing with appreciation the work done by the Ad Hoc Group on Article 13 on the issues relating to the establishment of a multilateral consultative process and its design,

Noting that the Ad Hoc Group has completed the task assigned to it in decision 20/CP.1,

Having considered the final report of the Ad Hoc Group on its sixth session,

1. *Decides*:

(a) To adopt a multilateral consultative process as set out in the annex to this decision and to establish the Multilateral Consultative Committee referred to therein;

(b) To designate ..... as members of the Multilateral Consultative Committee until the fifth session of the Conference of the Parties;

(c) To designate ..... as members of the Multilateral Consultative Committee until the sixth session of the Conference of the Parties;

(d) To designate ..... as members of the Multilateral Consultative Committee until the seventh session of the Conference of the Parties;

(e) To appoint ..... as Chairman of the Committee until the sixth session of the Conference of the Parties;

2. *Requests* the secretariat, after consultation with the Chairman of the Committee, to arrange for the first meeting of the Committee, to be held in conjunction with a session of the subsidiary bodies in 1999.

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